

*Office Memorandum* • UNITED STATES GOVERNMENT

TO : Personnel Director

DATE:

23 MAR 1953

FROM : Assistant Chief, Research and Planning Staff

SUBJECT: Proposed PDM on Maternity Cases

1. There is attached a proposed PDM establishing internal Personnel Office procedures for leave of absence or separation in maternity cases. The instructions provided for maternity leave conform to existing practice. However, there is currently no established procedure providing for separation with a grant of sick leave.

2. The proposed separation procedure would establish the practice of approving terminal sick leave when the employee does not intend to return to duty. Although it is within administrative discretion to approve terminal annual leave (with accrual of leave on leave), it is contemplated that accrued annual leave be liquidated by lump-sum payment.

3. The propriety of granting terminal sick leave generally and in maternity cases specifically is supported by pertinent decisions of the Comptroller General. However, it is also clear that the granting of such terminal sick leave is a matter of administrative determination and is not a right of the employee (24 CG 27).

a. The mandatory application of the Lump-sum Leave Act to terminal annual leave (as held in 24 CG 511) was not held to apply to terminal sick leave (24 CG 516). More recently, it has been ruled that "there appears no reasonable basis for any other conclusion but that the placing of an employee in an annual leave status at any time is a proper exercise of administrative authority. Therefore, since it is not required under the new regulations that there be a return to duty before leave on leave will accrue, no reason is perceived why that authority may not be exercised in the discretion of the agency even though it may be known in advance that the employee will be separated at the termination of the leave so granted. So far as the conclusion herein expressed is contrary to that reached in the decision of January 11, 1945, 24 Comp. Gen. 511, said former decision no longer will be followed."

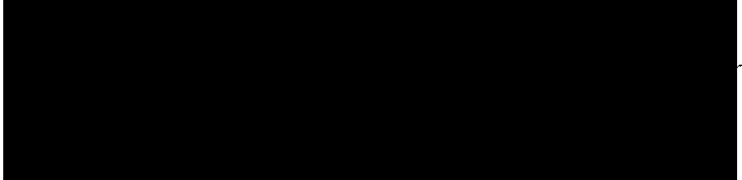
b. We have been informally advised by the Comptroller's Office that terminal annual leave payments have been made in a few instances under the above decision. However, general application of this rule would defeat the advantages of the lump-sum payment plan. It is our opinion that very careful consideration should be given to the circumstances under which such payments (with accrual of leave on leave)

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should be made. It is recommended that terminal annual leave not be granted in maternity cases pending such study.

4. The PDM also provides that the position of an employee on terminal sick leave or in a leave with pay status is encumbered and that another employee may not be assigned to the position until the effective date of separation or beginning of a leave without pay status, as appropriate.



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